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IN THE
COURT OF APPEALS OF INDIANA

VALERIE HOGSTON,	)	
	)	
Appellant-Petitioner,	)	
	)	
vs.	)	No. 32A05-0609-CR-498
	)	
STATE OF INDIANA,	)	
	)	
Appellee-Respondent.	)	

APPEAL FROM THE HENDRICKS CIRCUIT COURT
The Honorable Jeffrey V. Boles, Judge
Cause No. 32C01-0201-FC-7

June 29, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

MAY, Judge

Valerie Hogston appeals the denial of her motion to modify her sentence. We affirm.

On July 24, 2002, Hogston entered into a plea agreement that provided: "ANY TRUE BILL FINDING ON A PROBATION VIOLATION MUST RESULT IN THE EXECUTION OF THE ENTIRE SUSPENDED SENTENCE OF 6205 DAYS." (Supp. App. of Appellant at 60.) Hogston violated her probation and on September 29, 2004, she was ordered to serve her previously suspended sentence.

On June 5, 2006, Hogston filed a Motion to Modify or Review Sentence. She asked the court to "modify or review sentence, give Defendant credit for time served and release Defendant from Department of Corrections [sic] and terminate probation." (*Id.* at 62.) At the hearing, Hogston argued she relied on paperwork from the Department of Correction indicating she was to be paroled in January of 2007. Her motion was denied, and Hogston appeals.

In denying Hogston's motion to modify her sentence, the court stated:

> [I]n that order of 29 September I specifically wrote the court must follow the plea bargain, I have no authority to change those plea bargains, so your request for modification in this case must be denied. You may be, have been relying on the Department of Corrections [sic], there's no question ma'am that you knew when you went in on the plea bargain and your violation that you knew your [sic] were going to have to do six thousand two hundred and five days on this FC 7. Whatever document you presented to the court is an error by the Department of Corrections [sic] and I know and I do not have the authority to order a VOA uh transmittal anyway so your probation, your request to modify the probation has to be denied.

(Tr. at 40.)

The trial court was correct. *See Robinett v. State*, 798 N.E.2d 537, 540 (Ind. Ct. App. 2003) (when court sentenced Robinett to the number of years provided in his plea agreement, it had no authority to later reduce that sentence), *trans. denied* 812 N.E.2d 793 (Ind. 2004). We affirm the denial of Hogston's motion to modify her sentence.[1]

Affirmed.

BAILEY, J., and SHARPNACK, J., concur.

[1] The issue Hogston presented on appeal was:

> Does a defendant who believes a case to have been dismissed at a plea hearing, and who after expiration of 365 days, have [sic] the right to pursue PC-R sentence modification when notified that the case in question was not actually disposed of at the plea hearing so long as the defendant acts with diligence to secure PC-R upon said notice.

(Br. of Appellant at 1.) This was not the basis of Hogston's motion to modify her sentence, and she may not raise that new issue on appeal.